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Declaration of Conformity Replaces Certification for Many Products

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Report Highlights:

Beginning mid February 2010, Russia started replacing the system of mandatory certification of conformity of major consumer goods, including imported food, alcohol, and cosmetics, with a system of declaration of conformity. The move is intended to ease the bureaucratic burden on business and to allow producers to vouch for their goods based on their own verification. However, the mechanism of declaring conformity has not been developed yet, and the requirement for declarations may be stricter than in the previous certification system. Many producers and traders are concerned that the change will needlessly disrupt their business because the same people in the same certifying agencies will control and certify the authenticity of declarations.

General Information:

On December 1, 2009, Russia passed Resolution 982 which replaces the mandatory certification of conformity with a self-declaration system. Per this Resolution, by February 15, 2010, the Russian Ministry of Industry and Trade and the Federal Customs Service of the Russian Federation issued clarifications on the list of products subject to declaration of conformity instead of mandatory certification of conformity. Mass media advertized this as the start of the new system, although the mechanism for submitting declarations of conformity and the requirements for these declarations has not been established for various products. In the meantime, trade is continuing as importers are allowed to use their old certifications as long as they remain valid. Transition to the new declaration process may take some time as a lot of uncertainty exists. Many producers and traders are concerned that the change will needlessly disrupt their business because the requirements for declarations may be more rigid. Furthermore, the same people in the same certifying agencies will develop the sub-instructions, and will control and certify the authenticity of declarations.

Government Resolution No. 982

Government Resolution No.982 “On Approval of the Unified List of Products Subject to Mandatory Certification and the Unified List of Products for which the Confirmation of Conformity Is Made in the Form of a Declaration of Conformity” defined actions aimed at gradually replacing mandatory certification of quality with declarations of conformity. Resolution 982 approved the list of products subject to mandatory certification, and the list of products for which now only require a declaration of conformity. The products in these two lists were grouped in accordance with the Russian domestic industrial codes, which differ from the codes used in the foreign trade. All agricultural and food products were placed in the list of products that require declarations of conformity. The Resolution did not make any references to quality standards, norms, or quality requirements for products. However, the resolution required the federal authorities to provide more information for the public and business on products subject to confirmation of conformity (either through certification or through declarations), and to publish two sets of information: 1) the list of products subject to confirmation of conformity (either through certification or through declarations) with reference to the normative documents that set the mandatory quality requirements; and 2) the list of imported products subject to confirmation of conformity (either through certification or through declarations) with reference to their TN VED Codes (Codes of Commodity Nomenclature of the Foreign Economic Activity). In accordance with the Resolution these publications should have been issued by mid March 2010.

The resolution came to force on February 15, 2010, and mistakenly received high-profile publicity as

the date of replacing conformity certificates with quality declarations. Neither the text of Resolution, nor information (lists) issued in implementation of this Resolution define any specific measures for these changes.

An English translation of the text of the Resolution may be found in Attachment 1 to this report. The Russian text of the Resolution of the Government of the Russian Federation No. 982 of December 1, 2009, and attachments to this Resolution are on the site: <http://www.government.ru/gov/results/8561/>

Custom Codes of Products Subject to Mandatory Declaration of Conformity

Pursuant to Government Resolution No. 982, on February 11, 2010, the Federal Customs Service of the Russian Federation clarified the procedure of using the declarations of conformity in foreign trade (the English translation of this clarification may be found in the Attachment 2), and published two lists of products subject to confirmation of conformity for customs clearance with references to products' Customs Codes of the Customs Union [1] (TN VED TS). The list of products which require certification of conformity is in the Section II of Custom's clarifications, and the list of products that require declaration of conformity is in the Section III. These clarifications were placed on the web-site of the Federal Customs Service: http://www.tks.ru/files/other/kodi_TNVED.doc and http://www.customs.ru/common/img/uploaded/files/kodi_TN_VED-.doc.

In the introductory notice (Section I) the Customs Service clarified that imports of products subject to confirmation of conformity (through certificates or declarations) is regulated by the Federal Law on Technical Regulation (No. 184 –FZ of December 27, 2002) and the Rules for imports of products subject to confirmation of conformity approved by the Resolution of the Russian Government No. 53 of February 7, 2008. Until the relevant technical regulations [2], come into force, the Government of the Russian Federation annually approves and updates the list of products subject to conformity certification and the list of products subject to conformity declarations. The Customs Service clarified on what occasions the imported products do not need any document of conformity. The Customs Service also clarified that certificates of conformity issued before GOR Resolution No.982 came into force remain valid until the date of their expiration.

As for the published lists of products with customs codes, declaration of conformity is required for imports of all agricultural and food products, including the following products that are important for the U.S. exports to Russia:

- hides and skins - from TN VED code 4302,
- feeds of plant origin (by products of sugar refining, starch and syrup production, oilseeds crushing,

- alcohol and brewing production) – from TN VED codes 2303, 2304, 2305, and 2306,
- alcohol products – from TN VED codes 2208 90, 2204, 2206, 2208,
 - products of meat and poultry processing industries, and egg products – from TN VED codes 02, including 0201, 0202, 0203, 0204, 0205, 0207, 0208, 0209, 0210, 15, including 1502, 16, 19, 20,
 - feeds of animal origin – from TN VED codes 12 and 23,
 - mixed feeds – from TN VED codes 23, including 2301, and 23
 - fish and fish products, fresh-frozen, salted, cured, etc. – from TN VED codes 03, including 0301, 0302, 0304, 0305, 1604, 1605,
 - sea-food – from TN VED codes 03, including 0306 13, 0307, 1605,
 - caviar – from TN VED codes 03 and 16,
 - grain and grain products - from TN VED codes 07, 10, 12,
 - products of artificial insemination – from TN VED codes 0511, 3004, 3808, 3824.

Given that the correlation between the Russian domestic industrial codes and the Customs Codes of the Foreign Economic Activity (TN VED codes) is indistinct, and the original list is structured in accordance with the Russian domestic industrial codes, references to the Customs codes read as “from” These references are not informative, confusing, and may give way to the multiple interpretations of product categories at the Customs. Thus, for meat products the references read as following:

Name of Products	TN VED Code
9210* Products of Meat and Poultry Processing Industry, Including Egg Products	
Fat of pork, refrigerated, salted, smoked	from 0203, from 0209, from 0210
Baby food meat products	from 02, from 16, from 19, from 20
Meat of all kinds, processed from slaughter and wild life animals and birds	from 02
Beef in half carcasses and in quarters	from 0201, from 0202
Veal in carcasses and half carcasses	from 0201, from 0202
Pork in carcasses and half carcasses	from 0203
Lamb and goat meat in carcasses	from 0204
Poultry meat (duck, gees, turkey, guineafowl)	from 0208
Chicken meat (carcasses of chicken, broilers, and their parts)	from 0207
Chicken meat (carcasses of chicken, broilers, and their parts) for baby food	from 2007
Horse meat in half carcasses and in quarters	from 0205
Rabbit meat	from 0208
Offal	0206, from 0210, from 05
Animal fat for human consumption	from 0203, from 0209, from 0210, from 15

Raw fat (beef, pork, sheep and other slaughter animals and birds), refrigerated, frozen	from 0203, from 0209, from 1502
Rendered animal fats for human consumption	from 1501, from 1502
Dehydrated animal and bird meat and dry broth cubes	from 02, from 16, from 2104
Food gelatin	3503 00 100 1
*domestic industrial code	
Note: Custom Codes of the Customs Union (Russia, Belarus and Kazakhstan). These codes are similar to the Custom Codes of the Russian Federation	

References to Custom Codes for alcohol products are not clear also. The products are structured in accordance with domestic industrial codes, and references to Custom codes read as “from...” for most of products.

Name of Products	TN VED Code
9170* Products of Winemaking Industry	
Fruit vodka	from 2208 90
9171 Wine of fresh grapes	
Wine of fresh grapes	from 2204
Table wine	from 2204
Special wine	from 2204
Sparkling wine	from 2204
Flavored wine	from 2204
9172 Champagne and sparkling wine	
Champagne and sparkling wine	from 2204
Sparkling pearly wine	from 2204
9173 Fruit wine	
Fruit wine	from 2206, from 2208
Cider	from 2208
Honey wine	from 2206 00
9174 Cognac, brandy, cognac spirits	
Cognac, grape brandy, cognac drinks, calvados	from 2208 20 from 2208 90
9181 Vodka and alcoholic beverages	
Alcoholic beverages	from 22
Liqueurs	2208 70
Vodka and specific vodka	2208 60
Ethyl Alco spirits 95%	2207 10 000 0
*domestic industrial code	
Note: Custom Codes of the Customs Union (Russia, Belarus and Kazakhstan). These codes are similar to the Custom Codes of the Russian Federation	

Pursuant to the Government Resolution No. 982, on February 11, 2010, the Federal Agency for Technical Regulation and Metrology (Rostechregulirovaniye) at the Russian Ministry of Industry and Trade issued references to the Russian normative documents (GOSTs, SanPiNs and other documents) for products subject to conformity declaration. The products are grouped in accordance with the Russian domestic industrial codes. This list “Information on the Products, Subject to Confirmation of Conformity (in the Form of Declaration of Conformity) with Reference to the Normative Documents that Set the Mandatory Requirements” is available on the Federal Customs Service’s website:

http://www.customs.ru/common/img/uploaded/files/obiazatelnie_trebovania2.doc.

For every agricultural or food product the list usually gives either relevant Russian GOST or several relevant Russian GOSTs, or/and SanPiNs. For example, products in category “Meat of all types of slaughter, hunting and wild animals” (domestic industrial codes 921015, 921018, 921110, 921180) shall meet the requirements of the following Russian normative documents: SanPiN 2.3.2.1078-01 (Attachment 1, paragraphs 1.1.1., 1.1.1.1. - 1.1.1.5., 1.1.9., 1.1.9.1. – 1.1.9.4.), and GOST P 51074-2003, part 3, paragraphs 4.2., 4.3. There are no references to any international norms or standards, although the conditional use of international norms or standards is envisaged by the updated Federal Law on Technical Regulation (for more information see GAIN RS1002 _ Policy and Program Announcements _ Amendments to the Federal Law on Technical Regulation _ Moscow _ Russian Federation).

Press Reports and View

Mass media widely publicized the GOR Resolution No. 982 when it came into force on February 15, 2010. According to Interfax, the major Russian information agency, Prime Minister Vladimir Putin said that the share of producers required to receive state certification will drop from 78 percent to 54 percent. This will not only “de-bureacratize the procedure”, but should result in savings for business of about 700 million rubles (\$23.3 million) [3] . Mass media also speculated that Russian businessmen are optimistic about the change and are confident that the measures will not result in lower product quality. Those who were selling high quality products will be relieved from the burden of additional payments for certification and could invest more in quality improvement and control. The Moscow Times cited Nikolay Ostarkov, managing director of Delovaya Rossia, a business lobbying group: "Those who have been striving to produce quality goods will continue to do so, regardless of whether they need a certification or not." He added, “Those who tried to sell poor quality products could just buy certificates before. There was a whole corrupt system."

Nikolay Ostarkov also added that the main issue is to ensure that the liberalization is real: "If it's the exact same procedure controlled by the same authorities, the change will be in name only." Some other businessmen were also anxious that the bureaucratic structures that issued different certificates are too numerous and that these structures might make the procedure of declaring conformity even more cumbersome for business than getting certificates of conformity.

Meanwhile, representatives of the certification laboratories (such as Rosstest) have already expressed concerns that quality of consumer goods and products will deteriorate, and, moreover, the safety of these goods for consumers will decrease, if the products are not certified. They repeated that the experience of other countries will not work in Russia, because Russian business practices are not transparent, the rules of market competition do not work, and the system of punishment is very weak. In developed countries the producers who violate quality and safety requirements of the country are severely fined or their business might be even closed. However, the present Russian system of punishments for fraud and falsification of products is very weak and the fines are too low to be a deterrent (maximum is just in the thousands of rubles). The First Deputy Prime Minister Viktor Zubkov reported that by April 1, 2010 the Government will amend the Code of Administrative Violations to increase fines to up to a half a million rubles (\$17,000 USD), depending on the severity of the violation and potential threat to health or safety. However, other mass media reported that these amendments might take much longer, and might be seriously influenced by different lobbying groups.

Comments and Business Reaction

The purpose of the new initiatives is to simplify production of and trade, including imports. The new procedure will cover most imported consumer goods, including all food and alcohol products, and those agricultural products which previously required certificates of conformity upon importation. However, the first actions of the government authorities show that the transitional period will be long, and the registration of declarations of conformity will not be easy.

According to importers of food products, sometimes officers in Rostechregulirovaniye, and at Customs try to decrease the actual list of products allowed for declarations of conformity, and the vague description of commodities provides them the leeway to do so. The Customs' clarification on the declarations of conformity stipulates that the former certificates are valid until they expire. Meanwhile, some Customs officers began requiring new declarations of conformity for imported meat and meat products, alcohol and alcohol products in February, while the formerly issued certificates are still valid. In this respect Dr. G. Onishchenko, the Head of Rospotrebnadzor, issued a special clarification that the certificates of conformity are valid until they expire. This clarification was made on a special request of

the Russian Committee of Producers of Alcohol Products. Some importers of meat products complain that in order to get approval for declaration of conformity, they are required to submit more documents, including quality and safety certificates, to the same certifying agencies than they did before for certifying conformity of their products.

^[1] Customs Union composes Russian Federation, Republic of Balarus, and Republic of Kazakhstan

^[2] The Federal Law on Technical Regulation determines that the quality and safety of products, goods, services, etc. on the territory of the Russian Federation shall be regulated by the relevant technical regulations (technicheskii reglament). These technical regulations shall be science based and shall replace the present Russian state standards (GOSTs) and normatives. More on the Federal Law on Technical Regulation see GAIN RS1002 _ Policy and Program Announcements _ Amendments to the Federal Law on Technical Regulation _ Moscow _ Russian Federation

^[3] Interfax: Russia & CIS Food and Agriculture Weekly, February 11- February 17, 2010, page 31

Attachments:

Attachment 1. Russian Government Resolution No. 982 of December 1, 2009

BEGIN TRANSLATION

Resolution of the Government of the Russian Federation No. 982 of December 1, 2009
“On Approval of a Unified List of Products Subject to Mandatory Conformity Certification and a
Unified List of Products for which the Confirmation of Conformity Is Made in the Form of a
Declaration of Conformity”

In accordance with paragraph 3, Article 46 of the Federal Law “On Technical Regulation” the Government of the Russian Federation decrees the following:

1. To approve the attached:
 - unified list of products subject to mandatory certification;
 - unified list of products for which the confirmation of conformity is made through declaration of conformity.
2. Within a month period the Ministry of Industry and Trade of the Russian Federation shall develop and approve the procedure in accordance with which the federal bodies of executive power shall submit and publish information about products subject to mandatory confirmation of conformity.
3. The Federal Agency for Technical Regulation and Metrology and the Federal Customs Service with participation of interested bodies of executive power and based on the unified lists of products adopted by paragraph 1 of the present Resolution shall provide for publication of the following information:
 - on products subject to mandatory confirmation of conformity with reference to the normative documents that set the mandatory requirements;
 - on products subject to mandatory confirmation of conformity when the products are placed under the custom regimes on the customs territory of the Russian Federation, with reference to their Codes of Commodity Nomenclature of the Foreign Economic Activity.
4. The present Resolution does not cover relations that arise at evaluation of conformity of those products requirements to which are set by the Article 5 [1] of the Federal Law “On Technical Regulation”.
5. To acknowledge that the acts of the Government of the Russian Federation (in attachment) cease to be in force.
6. The Resolution comes to force in two months from the date of its official publication, except paragraph 2, which comes to force on the date of official publication of the Resolution.

Chairman of the Government
Russian Federation

V. Putin

END TRANSLATION

Attachment 2. References to Customs Codes for Products Subject to Confirmation of Conformity

BEGIN TRANSLATION

Information on Products Subject to Mandatory Confirmation of Conformity
when the Products are Placed under the Customs Regimes that Envisage a Possibility of Alienation or
Use in Accordance with their Purposes at the Customs Territory of the Russian Federation,
with Specification of TN VED TS Codes

I. Introduction

Information on products subject to mandatory conformity confirmation when they are placed under the customs treatment envisaging a possibility of alienation or use in accordance with their purposes at the customs territory of the Russian Federation with specification of TNVEDTS codes (hereinafter – the “Information”) has been prepared by the Federal Agency for Technical Regulation and Metrology (Rostekhnregulirovanie) and the Federal Customs Service of Russia. It is prepared for fulfillment of item 3 of RF Government Resolution No.982 of December 01, 2009, “On Approval of a Unified List of Products Subject to Mandatory Certification and a Unified List of Products for which the Mandatory Confirmation of Conformity is Made in the Form of a Declaration of Conformity” (hereinafter – the “RF Government Resolution”).

Products (commodities) subject to mandatory conformity confirmation shall be imported into the Russian Federation territory in accordance with the provisions of Article 29 of Federal Law No.184-FZ of December 27, 2002 “On Technical Regulation” (hereinafter – the “Law”) and item 3 of the Rules of Importing Products Subject to Mandatory Confirmation of Conformity into the Customs Territory of the Russian Federation approved by the RF Government Resolution No. 53 of February 07, 2008 “On Importing Products Subject to Mandatory Confirmation of Conformity into the Customs Territory of the Russian Federation (hereinafter – the “Rules”).

Prior to the date of entry into force of the relevant technical regulations, the RF Government will approve and update annually a unified list of products subject to mandatory certification and a unified list of products subject to declaration of conformity (paragraph 3, Article 46 of the Law). Currently, such product lists are defined by RF Government Resolution dated December 01, 2009 No.982 “On Approval of a Unified List of Products Subject to Mandatory Certification and a Unified List of Goods for which the Mandatory Confirmation of Conformity is Made by Adopting a Declaration of Conformity.”

Commodities conformity to the mandatory requirements shall be confirmed through the submission of one of the documents/document copies, mentioned in the RF Government Resolution, to the customs authorities of the Russian Federation. The documents have equal legal force irrespective of the pattern of mandatory conformity confirmation and shall be considered as documents required for customs purposes.

Certificates of conformity issued prior to entry into force of the RF Government Resolution for commodities included in Sections II and III of the Information might be presented for customs clearance

before the date of their expiry.

Officials of the RF customs authorities shall release individual types of goods covered by Sections II and III of the Information without the submission of documents of conformity when the goods are placed under the following customs regimes:

a) release for domestic consumption when the following goods are imported as following:

- individual specimen (no more than 5 units of the same name categorized by the same classification code under the RF Foreign Trade Goods Nomenclature) or in limited quantities (no more than 50 kilograms of goods the weight of which (net weight) in accordance with the common rules of retail sales is measured in kilograms) provided that guarantees are given to the customs authorities as to ensure proper fulfillment of the responsibilities for non-alienation of such goods within the RF customs territory;

- for representation purposes (advertising materials, souvenirs);
- as specimen and samples for conducting research and testing;
- as spare parts for maintenance and repair of ready-made products imported earlier into the RF territory for which their conformity to the mandatory requirements has been confirmed, provided that copies of the documents for the said ready-made goods supporting their conformity to the mandatory requirements were submitted to the RF customs authorities;
- as component parts of products manufactured in the territory of the Russian Federation;
- addressed to representative offices of foreign states and international intergovernmental organizations provided that a commitment is granted to the customs bodies that the goods will be consumed/used only by those persons who imported them;
- as a humanitarian aid or technical assistance;

b) temporary importation of the following imported items:

- containers, packages, pallets;
- goods designed for demonstration at expositions, fairs and international meetings as auxiliary equipment/materials intended for using at such demonstrations or for using at expositions, fairs and international meetings;
- commercial samples, designed exclusively for receiving orders for goods of the same type and not applicable for other purposes. It is ensured by making indelible marks, ruptures, punched holes or causing damages by another method;
- products designed for conducting tests, inspections, experiments, demonstration of properties and characteristics;
- printed advertising products;
- equipment required for actors, theatrical companies and orchestras (items used in their performances, musical instruments, decorations and costumes), if such goods are imported by a foreign person and used by him/her within the territory of the Russian Federation;
- professional cinematic equipment; press, radio and TV-equipment; supporting devices and accessories to this equipment imported by a foreign person and used by him/her within the territory of the Russian Federation;
- goods designed for sport tournaments, demonstrative sporting events or athletic trainings imported by a foreign person and used by him/her within the territory of the Russian Federation;

c) free custom zone in case when this customs treatment is applied to Russian goods and goods to be

processed;

d) free warehouse in case when this customs treatment is applied to Russian goods and goods to be processed;

e) re-import in cases when the following articles are placed under this customs treatment:

- goods for the purposes of termination of the customs treatment of temporary export;
- replaced spare parts and equipment for transport vehicles imported into the RF customs territory in accordance with Chapter 22 of the RF Customs Code;

f) duty-free trade;

g) transportation of stores in case when this customs treatment is applied to foreign goods imported into the RF territory on board of sea/river vessels, aircrafts or trains, if such goods are not unshipped at the RF customs territory from the above transport means within the period of their location at the RF customs territory or if such goods are unloaded temporarily or transferred to other ships or trains;

h) transportation of goods designed for the prevention or elimination of natural calamities or other emergency situations if these goods are not intended for free distribution among individuals affected by emergency situations;

i) processing at the customs territory, in the following cases:

- if the customs authority has not permitted to make an equivalent compensation for the goods imported for processing in accordance with Article 186 of the RF Customs Code and the processing operation is repair;
- if products obtained from processing of the goods, exported earlier in accordance with the customs treatment on processing outside the customs territory, are imported into the RF customs territory in case when the processing operation outside the customs territory is repair;

j) customs warehouse, except those cases when such operations as alienation, transfer of ownership, use and/or disposal rights are performed with goods;

k) in case of importing previously used/operated goods irrespective of customs treatment;

l) in cases when certificate of conformity issued to the manufacturer of commercially available products, or declaration of conformity accepted by the manufacturer or by person performing functions of the foreign manufacturer as to assurance conformity of supplied products, for the turned out goods were used for the previous declaration process irrespective of who submitted them to the customs authorities. It shall be made on the condition that data on such documents have been incorporated in the record of documents and that there is a reference to the customs declaration to which they are attached and that registration numbers of the documents are specified in column 44 of the submitted customs declaration irrespective of customs treatment;

m) in cases when documents on conformity of turned out goods are presented in electronic format

irrespective of customs treatment.

The documents on conformity should be provided through the process of declaration of goods included in Sections II and III of the Information after entry into force of a regulatory legal act of the federal executive body authorized in the area of customs affairs issued in fulfillment of the RF Government Resolution on the modification in Attachment #2 “List of Documents and Data Required for the Customs Clearance of Goods in Accordance with the Selected Customs Regime for Importing Goods to the RF Customs Territory the Submission of which is Envisaged by the RF Legislation, other Regulatory Legal Acts of the Russian Federation and International Treaties of the Russian Federation” approved by Order of the Federal Customs Service (FCS) of Russia on April 25, 2007, #536.

Rostekhnregulirovanie or its authorized entities shall be entitled to provide clarifications on the issues concerning confirmation of conformity of the goods covered by Sections II and III of the Information. Data on the provided clarifications shall be sent to the FCS of Russia and published at its official website (www.customs.ru).

END TRANSLATION

Relevant Reports

RS1002 _ Amendments to the Federal Law on Technical Regulation _ Moscow _ Russian Federation _ 1-14-2010.

RS1001 _ Government Resolution 1009 on Food Quality and Safety Control _ Moscow _ Russian Federation _ 1-27-2010

^[1] Article 5 of the Federal Law “On Technical Regulation” determines major peculiarities of technical regulations for goods, products, services in the spheres of defense, intelligence, national security, etc.